

REMARKS

Claims 2 and 27 are amended herein. Claims 1-33 remain pending in the application.

In the Drawings

Figs. 1-5 were objected to for alleged labeling inconsistencies with the specification.

A proposed drawing correction is attached hereto for Figs. 1-3. Amendments to the specification are included herein to further correct any inconsistencies.

Approval of the proposed corrections and withdrawal of the objection are respectfully requested.

Moreover, the Office Action alleges that Figures 1 and 3 contain a reference to item 111 that is not mentioned in the description.

The Examiner is directed to, e.g., page 11, line 11.

The Applicants respectfully request the objection to item 111 in Fig. 1 and 3 be withdrawn.

In the Disclosure

The disclosure was objected to as an alleged mislabeling of a reference to figure 8 that should have been a reference to figure 6.

The Applicants have amended the appropriate paragraph of the specification herein. The Applicants respectfully request the objection to the specification be withdrawn.

35 USC 112 Second Paragraph Rejection of Claims 31-33

The Office Action rejected claims 2, 11, 25 and 33 as allegedly being indefinite under 35 USC 112.

The claim 2 has been reviewed and is amended where appropriate.

Claims 11, 25 and 33 are allegedly indefinite for recitation of "impedance". In particular, the Office Action alleges that impedance is indefinite because it is unclear if the Applicants are claiming a linear or non-linear characteristic.

Impedance is a term within the art. Those of ordinary skill in the art would clearly understand the term impedance. As is known, impedance may be linear or non-linear. The recitation of "impedance" within claims 11, 25 and 33 is definite, well within the requirements of 35 USC 112.

It is respectfully submitted that claims 2, 11, 25 and 33 are in full conformance with 35 USC 112. It is respectfully requested that the rejection be withdrawn.

Claims 1-7, 12-21 and 26-29 over Lechleider in view of Bellenger

In the Office Action, claims 1-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger et al., U.S. Patent No. 6,058,110 ("Bellenger"). The Applicants respectfully traverse the rejection.

Claims 1-7 and 12-15 recite, *inter alia*, determining a suitability of a service line used by a subscriber for supporting DSL service via a combination analog/DSL modem. Claims 16-21 and 26 recite, *inter alia*, program code for determining a suitability of a service line for DSL services via a combination analog/DSL modem. Claims 27-29 recite, *inter alia*, a parameter test module that is adapted to connect to a combination analog/DSL modem to measure at least one parameter of a service line via an analog modem module and a parameter reference module adapted to correlate the measurement by the parameter test module to a suitability for supporting services via a DSL modem module.

Lechleider appears to disclose a method and system that uses voiceband transmission characteristics to estimate viability of deploying

broadband services over a subscriber loop in a public switched telephone network (Abstract). Analog modems at a customer and a service provider allow the analog modem at the customer to collect information about the quality of the connection between the two (Lechleider, col. 7, lines 24-32).

The Office Action acknowledged that Lechleider fails to disclose use of a combination analog/DSL modem (Office Action, page 5). However, the Office Action relies on Bellenger to allegedly make up for the deficiencies in Lechleider to arrive at the claimed invention. The Applicants respectfully disagree.

Bellenger appears to disclose a modem that operates in both a voice band, from 300 to 3400 Hz, and also in an ADSL band, which extends above 3400 Hz (Abstract). A modem that is able to operate in both an ADSL band and a voice band, allows a choice of operating at a higher data rate without the cost of an ADSL modem (Bellenger, col. 3, lines 1-8).

Bellenger discloses a modem that is able to communication in an ADSL band, but lacks the complexity of an ADSL modem. Thus, Bellenger discloses a method of receiving and transmitting data at a higher data rate in a higher band than voice communications through conventional analog modem protocol, **NOT** a DSL modem. Bellenger fails to disclose a DSL modem much less combination analog/DSL modem, as recited by claims 1-7, 12-21 and 26-29.

Moreover, Lechleider teaches away from use of a combination analog/DSL modem. Lechleider tests a viability of a DSL installation through an analog modem. However, when it comes time to initiate DSL service, the analog modem must be changed out for a suitable DSL modem. Thus, Lechleider in view of Bellenger not only fails to disclose a combination analog/DSL modem, but actually teaches away from such a use.

Neither Lechleider nor Bellenger, either alone or in combination, fails to disclose, teach or suggest determining suitability of a service line by a combination analog/DSL modem, as recited by claims 1-7, 12-21 and 26-29.

A benefit of a combination analog/DSL modem is, e.g., testing of a DSL line after DSL service is initiated. If DSL service becomes interrupted after

service is initiated, the prior art requires detaching a DSL modem and attaching an analog modem to test a service line. Use of a combination analog/DSL modem would simply require a user to initiate the analog portion to test a service line and report any faults. Once DSL service is restored, the DSL portion is once again initiated to restore DSL service without having to disconnect a modem and reconnect another. The cited prior art fails to disclose or suggest such a benefit.

Accordingly, for at least all the above reasons, claims 1-7, 12-21 and 26-29 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 8-11, 22-25 and 30-33 over Lechleider in view of Bellenger and Vogt

In the Office Action, claims 8-11, 22-25 and 30-33 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider in view of Bellenger, and further in view of Vogt, III et al., U.S. Patent No. 5,625,667 ("Vogt"). The Applicants respectfully traverse the rejection.

Claims 8-11, 22-25 and 30-33 are dependent on claims 1, 16 and 27 respectively, and are allowable for at least the same reasons as claims 1, 16 and 27.

Claims 8-11 recite, *inter alia*, determining a suitability of a service line used by a subscriber for supporting DSL service via a combination analog/DSL modem. Claims 22-25 recite, *inter alia*, program code for determining a suitability of a service line for DSL services via a combination analog/DSL modem. Claims 30-33 recite, *inter alia*, a parameter test module that is adapted to connect to a combination analog/DSL modem to measure at least one parameter of a service line via an analog modem module and a parameter reference module adapted to correlate the measurement by the parameter test module to a suitability for supporting services via a DSL modem module.

As discussed above, neither Lechleider nor Bellenger, either alone or in combination, fails to disclose, teach or suggest determining suitability of a service line by a combination analog/DSL modem, as recited by claims 8-11, 22-25 and 30-33.

The Office Action relies on Vogt to allegedly make up for the deficiencies in Lechleider and Bellenger to arrive at the claimed invention. The Applicants respectfully disagree.

Vogt appears to disclose a method of measuring characteristics such as resistance, capacitance and foreign voltage on a telephone line (Abstract). A steady state voltage is sampled a number of times to determine the resistance, capacitance and foreign voltage on the telephone line (Vogt, col. 4, lines 3-16).

Although Vogt discloses testing a telephone line for operating characteristics, Vogt fails to disclose or suggest using a modem to do so, much less a combination analog/DSL modem, as recited by claims 8-11, 22-25 and 30-33.

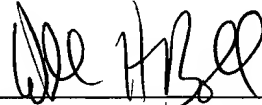
Neither Lechleider, Bellenger nor Vogt, either alone or in combination, fails to disclose, teach or suggest determining suitability of a service line by a combination analog/DSL modem, as recited by claims 8-11, 22-25 and 30-33.

Accordingly, for at least all the above reasons, claims 8-11, 22-25 and 30-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,
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ANNOTATED MARKED-UP DRAWINGS

FIG. 1

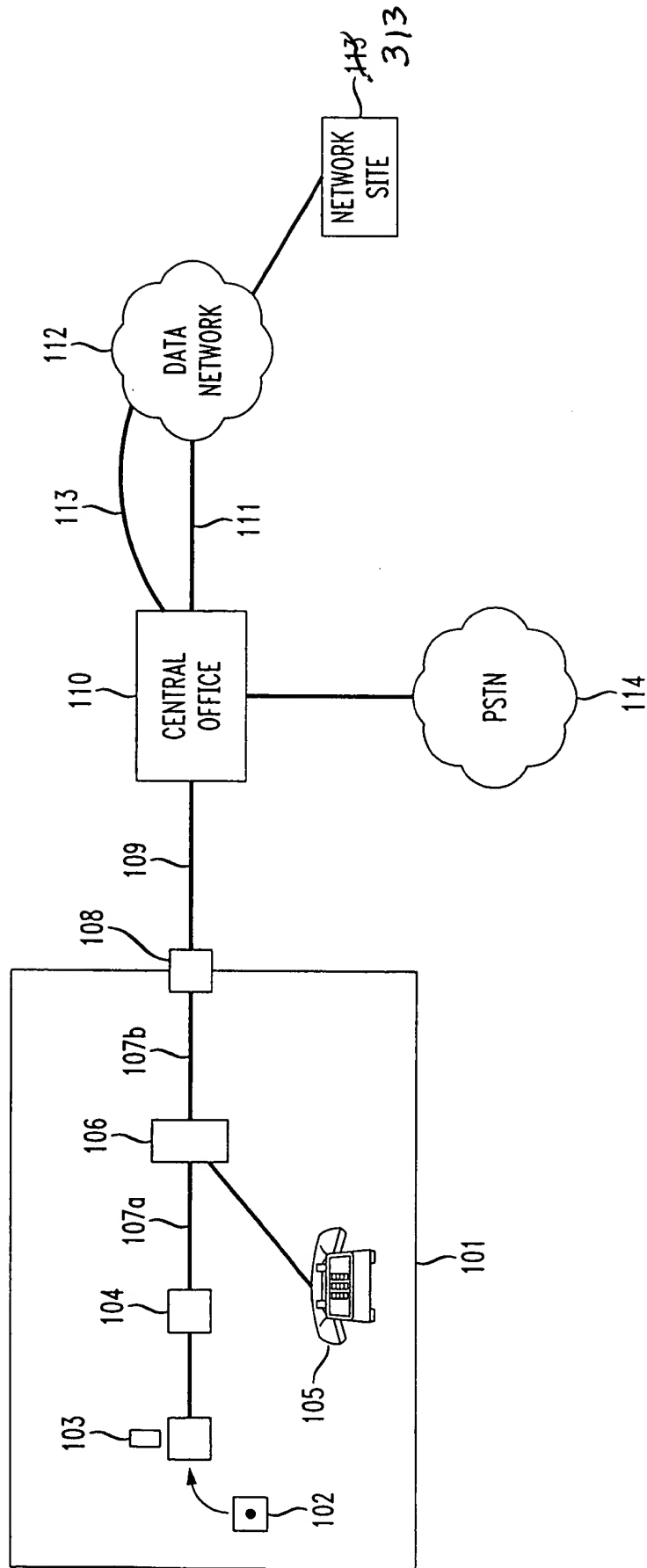
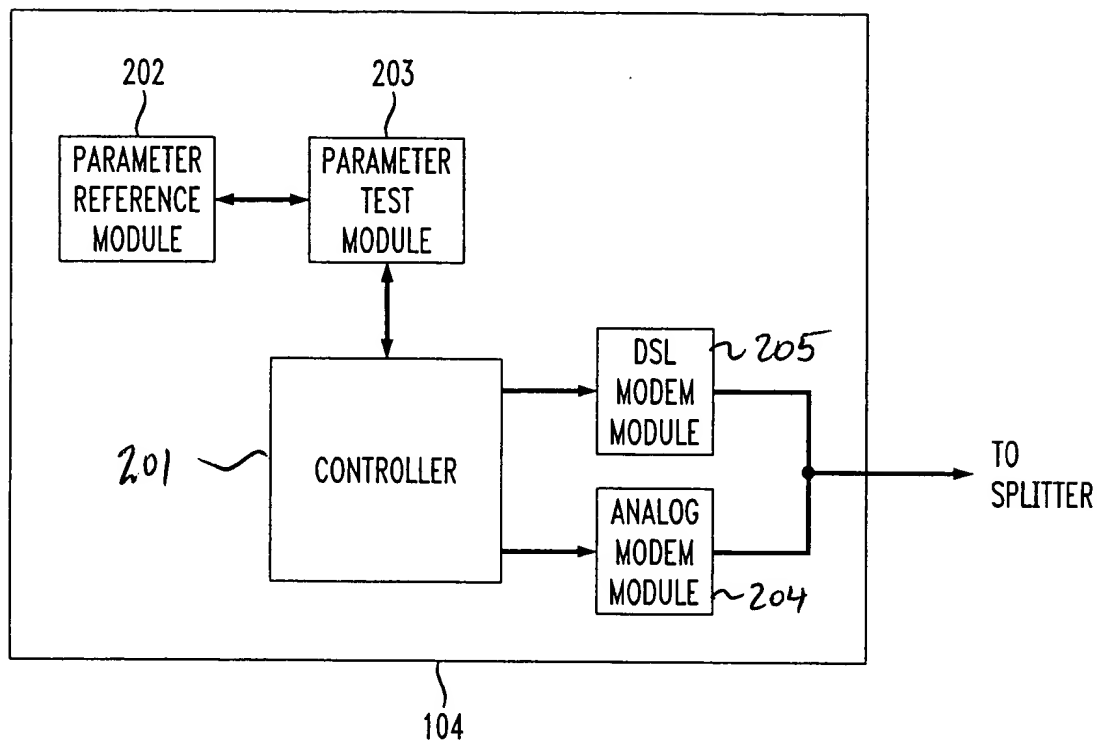




FIG. 2





ANNOTATED MARKED - DRAWINGS
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FIG. 3

